

December 12, 2019

The Honorable Judge Bianco
U.S. District Court – EDNY
100 Federal Plaza
Central Islip, NY 11722

Material Witness Perjury Left Unaddressed¹

Your Honor,

Following the December 6, 2019 court room discussions about John Kaiser's \$200,000 victim status ([ECF No. 765, government summary chart at 30-31](#)) and the debunking evidence that those funds did not belong to him, per his own trial testimony ([Tr.1058-59, 1064-65](#)), the following are additional perjurious statements by Kaiser about funds (1) he personally "borrowed" from his friends & family, and (2) *lied to the 2015 EDNY court about; blaming on Kenner*. The bank records confirm that John Kaiser *never* re-paid his investors after he received the **full-documented repayments** from the Hawai'i JV in 2006 ([Bates stamp: NAAZ000433-44, totaling \\$1,176,000](#)) and the California renovation project sale with Kenner ([ECF No. 736, Ex.Z41](#)).

Who is investigating Kaiser for this criminally premeditated perjury (suborned or otherwise)?

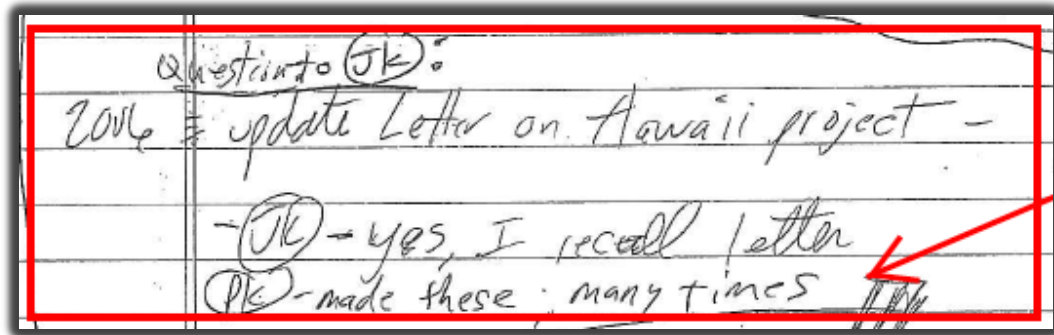
- See "[Kaiser PERJURY-Chronology is CRITICAL](#)" ([Ex.A](#))

The government, in multiple court submissions in support of the defendant's verdict and acts of concealment, has referenced Kaiser's testimony for its veracity. Based on Kaiser's text message communications with Kenner, *infra*, **Kaiser's testimony was specifically fabricated for trial**. Kaiser *is not* and *cannot* be a victim in the instant case. Kaiser has ZERO money personally invested in any instant case "object". *That is indisputable. The government bank records also confirm Kaiser owes Kenner well-over \$1 million in personal loans (and has avoided them since his arrest-assistance in 2013).* The government and Kaiser's conflation of this fact deprived the Court, the jury, and the defendants a fair trial based on empirical evidence they ignored to frame their "*Kenner stole everyone's money*" theories. The regular Hawai'i updates allowed anyone who was not consciously avoiding

¹ At sentencing, "the Court is virtually unfettered with respect to the information it may consider." *United States v. Alexander*, 860 F.2d 508, 513 (2d Cir 1988).

"knowledge" to be informed. Willful bliss cannot be the government basis for a conviction of confidence.

Kaiser confirmed to the FBI in October 2010 that "*update letters*" to the investors were regular and "*Kenner made these many times*" (3500-JK-1-r at 3)...



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Just prior to the Cabo March 2006 closing, Hawai'i closing attorney Madia updated the group after the second 2006 Jowdy-Lehman Brothers delay...

M. Robert Madia

From: pk <pkennn@imvelocita.com>
Date: February 24, 2006 at 9:40:21 AM EDT
To: Attorney Madia RMM@MadiaLaw.com
Cc: Phil Kenner <phil@standardadvisors.com>
Subject: Mexico closing and Hawaii project update #5
Attachments: FW: fax_8002173433.tif; FW: fax_8001775632.tif

Rob... thanks for the update to the guys. Good stuff. I am sure Ken and Bill were upfront with us about the "slush fund" repayments plan from Masood after the closing to repay the Hawaii loans and the other money he owes me, Muzz, Bobby, Matti, Stumpy, etc. thx.pk

From: R.M.Madia RMM@MadiaLaw.com
Date: February 24, 2006 at 6:21:43 AM EDT
To: Phil Kenner <phil@standardadvisors.com>; pk pkennn@imvelocita.com; Brad Isbister; Brad Lukowich; Brian Berard; Brian Campbell; Chris Simon; Dan Boyle; Darryl Sydor; Dimitri Khristich; Ethan Moreau; Glen Murray; Greg deVries; Jason Woolley; Jay McKee; Jere Lehtinen; Jerry Glatt; Joe Juneau; Jozef Stumpel; Kristine Myrick; Mattias Nordstrom; Michael Peca; Owen Nolan; Sergei Gonchar; Steve Rucchin; Travis Green; Turner Stevenson; Tyson Nash; Vladimir Tsyplakov; Chris Manfredi; John Kaiser; John Kaiser; Chris Hawkins
Cc: Phil Kenner phil@standardadvisors.com; pk pkennn@imvelocita.com; RMM@MadiaLaw.com
Subject: Mexico closing and Hawaii project update #5
Attachments: fax_8002173433.tif; fax_8001775632.tif

For those of you who are not aware Ken Jowdy and Bill Najam have informed us that the Lehman Brothers closing in Cabo will be delayed another 30 days. They have legal issues to handle in Mexico prior to their final signoff and funding. We have been reassured that they are delays not complications.

We have been informed that part of the closing process at Lehman Brothers rejected the original proposal to repay the Hawaii loans at the closing by collateralizing Ken's 20% equity he received for managing the Cabo project. We were also informed that Kenner would not be accepted as a joint manager with Ken. Ken will be the sole manager. We have received full reassurances that the management will still receive our input. It is complicated but had something to do with the 2005 deal Phil and the Hawaii management team rejected in concert with my advice.

Based on the meetings John Kaiser had with Ken before we agreed to lend him the money in 2004 Phil has asked me again to attach for your records a copy of the lending agreement. Please contact me with any questions but you should already have your copy from previous communications.

The questions during our last conference call by Owen Nolan, Mike Peca and Bryan Berard were important to all of you. If you are still confused about the individual equity you invested in the Cabo project versus the Hawaii equity and loans, please reply to me. It thought Phil clarified this but I want all of you to be clear. Most of you are involved in both deals. You should have the operating agreements I previously forwarded to you after every member signed them. If not please contact me about what you cannot find in your personal records and I will forward them to you or your advisors.

Based on the delay I have also resent the updated loan calculation from the Hawaii loan to Jowdy for your records. It has been given to Masood at Lehman Brothers so he is aware of the amount that is continuing to accrue to Jowdy. As a result of the phone call with Ken and Bill about the delayed

closing they confirmed the 15% was still accruing in spite of the delay. They were confident that the initial real estate sales in Cabo in the first year would produce the funds needed to fully repay the loans plus additional interest. I find comfort in their representations. The 15% is not a normal loan interest. The extra accrued interest for the Hawaii project will assist in defraying the development expenses Chris Manfredi, Chris Hawkins and John Kaiser have explained to you on previous conference calls. Once we receive the development authorizations from Ka'u District in Hawaii we will have more funds available to begin the next phase. You should recall that the Centrum loan from 2005 could also be extended upon request and verification when construction and development funds are required. Lehman Brothers has suggested that once they complete the Cabo funding they want to sit down with Phil again and try to and finance the entire project. They have proposed a macro lending deal not just the \$5,000,000 acquisition loan that caused the 2005 issue and termination prior to the Tommy Constantine loan that saved the oceanfront parcel in the eighth extension week which Phil negotiated with Hawaii Senator Chumbley. We will determine Lehman Brothers future involvement in time since Tommy has another developer that he and Phil have been dealing with. They have already made their initial trip plans to Hawaii with land manager Chris Hawkins and that joint venture seems to have real promise. They currently have successful developments in Canada and the USA. Some of you may also be invested with them. They have a number of NHL players as investment partners.

For those of you who are Mexico investors if there are questions you want to discuss with Ken or Bill directly I am sure they would welcome your calls about the delay issues.

While we are completing the Cabo funding I believe that Chris and John are working in Hawaii on permits to begin construction on the Discovery Harbor lots that the company bought in early 2005. As you recall these are the small lots that can be used to test the material import timing and problems from the mainland during smaller scale construction.

Our Carlsmith Ball LLP attorney Steve Lim and his staff have completed additional registration work for the 501(c)(3) property we split off from the 1500 acre Hono'apo property based on the remediation issues that came with the 10 acre lot adjacent to Mamalahoa Highway. If you are unaware or have forgotten the strategy with the Ka'u District to build a local museum on the parcel and "give back" to the community please contact Chris Manfredi or Phil who have been managing that strategy with the local attorneys.

Sincerely, Rob

From: pk <pkenner@imvelocita.com>
 Date: February 23, 2006 at 6:31:29 PM EDT
 To: Attorney Madia RMM@MadiaLaw.com
 Cc: Phil Kenner <phil@standardadvisors.com>
 Subject: Mexico closing and Hawaii project update #5

Rob...please update the guys with the new Cabo closing info and Hawaii updates based on the call with bill and ken and loan repayment delay. Get them the loan information again.
 Thx.pk

Evidence of Kaiser's material trial perjury...²

Kaiser's trial confabulation was assisted by a willing prosecutorial team and FBI agent, which conflated the funds Kaiser borrowed from his friends & family as somehow Kenner's fault when Kaiser received the funds (100% documented in

² Please note that 2011 updates to the Hawai'i-Mexico investor group and their independent attorneys were recently discovered by Kenner as part of the 1 million PDF documents turned over to Kenner on the "eve of trial" (unsearchable). They are attached as [Ex. 1](#) and [Ex. 2](#) to this letter to the Court. They transparently identify the Jowdy, Kaiser, Berard corruption and planned 2015 EDNY perjury surrounding their changed stories once they were hired by Jowdy to represent the Jowdy frauds – as somehow Kenner's fault, despite Jowdy receiving 100% of the funds ([government-forfeiture-44](#)) and embezzling the lion's share of them ([government-forfeiture-36](#)) ([ECF No. 667](#)).

banking records admitted at trial thru stipulation) and never re-paid them to “his” sources. ***Kaiser needed a scapegoat for the millions he borrowed and retained, infra.***

In 2011 -- Kenner explained to Kaiser via text (*infra*) that Kenner has continued to pay for the Mexico litigation for all of the investors versus Jowdy, even after Constantine refused to send anything from the GSF, except for very limited funds to the Mexico attorneys (echoing Michael Peca's 2015 testimony – [Tr.539-540](#)). Kenner sent the following text message to Kaiser following Kaiser complaining about the funds he “took” from his friends & family and *still* has to repay (while asking to borrow more money from Kenner to help). Kenner stated while denying his requests:

174 19	+163123503 08 John Kaiser*	7/22/2011 2:40:23 PM(UTC+0)	Se nt	<u>Every day and still paying for the Mex litigation.</u>
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That same day in 2011, John Kaiser admitted that he still owed his mother (Ethel Kaiser) \$1 million, *infra*. According to Kaiser's testimony in 2015, he sold his home within the 30-day window that he originally borrowed the money from his mother – and paid her back ([Tr.979-80](#)). ***It does not reconcile with his testimony.***

Ethel Kaiser gave testimony that she recovered \$390,000 (despite the \$850,000 Kaiser received from her in 2005 – [Bates stamp: NTC012759-761](#)). Ethel confirmed that \$390,000 was paid back to her (plus interest) by John Kaiser; ***who should have*** since he personally borrowed the money from her ([Tr.933-34](#)). *Ethel may have been mistaken*, based on ***John Kaiser's confessional 2011 texts, infra***, which validates he *never* repaid her the money -- \$390,000 or the actual \$850,000 – ***and lied to the 2015 trial Court.***³

John Kaiser and Berard steal from unknowing Ethel Kaiser...

In an additional fraud, Ethel Kaiser denied that she loaned John Kaiser and Bryan Berard \$147,000 ([Tr.940-41](#)). John Kaiser confirmed he received the money from his forgetful mother, again ([Tr.1160](#)). This time, ***he and Berard*** split the “ill-gotten”

³ Rule 16 productions by the government also confirmed that John Kaiser tried to sign a sales contract for property in Hawai'i titled to Big Isle 6, LLC that he was not the Managing Member of in order to steal the lots and sell them in October 2010 ([Bates stamp: ED-0003148-49](#)).

proceeds from their unknowing victim, Ethel Kaiser (*Bates stamp: BK-MM-0000233*) – with Berard receiving \$95,000.

- ***These facts are irrefutable and present a clean perjury problem for the government of their star-witness.*** Kaiser also confessed, *infra*, to Kenner about his various friends & family pressures on him as a result of the funds that “he took”, while trying to pay them back; ***never blaming Kenner (or even alleging Kenner owed him the millions he lied about during the 2015 trial).***
- *Kaiser's 2006-07 plans to re-use his friends & family funds*, borrowed from Ethel Kaiser and others (to double-down his investment), failed badly when the global markets “cracked” in 2009.

Kaiser panicked...

Kenner did not know any of Kaiser's friends & family or meet them before Kaiser independently chose to solicit and receive their funds in 2005-06. Kaiser confirmed this to the 2009 arbitration panel in Arizona (*Day 5 Nolan arbitration at Tr.926-929*); *never suggesting Kenner was involved in the solicitation:*

[John Kaiser]: “But the loans -- even investors that I brought in, I said, Listen. This guy -- I gave him the whole story about Ken Jowdy backed by land. It's good. Better than your money sitting somewhere.”

The government tried to falsely submit a 2005 meeting thru Ethel Kaiser's testimony (*Tr.934*)⁴ and picture, which was taken two years later as the

⁴ The government used a confused septuagenarian to juxtapose a 2007 meeting with a 2005 date (2-year difference) that would have pre-dated her personal loan to her son (*Tr.934*):

*Q I'm going to fast forward -- by the way, **in or about this period of time, did you meet Mr. Kenner at any family functions or social events?***

A [Ethel Kaiser]: Yes, I did.

Q I'm showing you what has been marked for identification as Government 942. Do you recognize who is depicted in that photograph?

A [Ethel Kaiser]: Yes; Phil Kenner, my son John, and his baby.

Q Which baby is that?

A [Ethel Kaiser]: A grandchild that John had just had.

corroborating evidence ([GX-942](#)), misleading the jury about the timing of when Kenner met Ethel Kaiser for the first time. *John Kaiser had clearly stolen his mother's repayment money by the time Kenner met Ethel Kaiser in 2007* – and the government misled the Court.

John Kaiser confessed in July 2011 to significant money he took from his friends & family (*infra*). His only complaint of Kenner is that Kenner did not loan him *extra* to help him out; *never attributing the money he borrowed as Kenner's fault in his moment of anger*:

Kaiser 2011 confessions contradict his material 2015 testimony about repayments:

1 2 6 7 2	+16312 350308 John Kaiser*	7/22/2011 2:17:04 PM(UTC+0)	R e a d	Yes and that is not [sic] [not] the only money that is owed out , that I have been working everyday to pay back everyone
1 2 6 7 4	+16312 350308 John Kaiser*	7/22/2011 2:57:35 PM(UTC+0)	R e a d	5k month for back taxes on the sale of 87 laurel made 250 k [his prior home that allegedly paid back \$1 million in loans], 100k went to u [to Kenner for loan repayments] , 150 vin [Tesoriero] owes, 3300 a month goes towards cards from Pv [Arizona] Reno, was paying my mother [Ethel], \$ 2500 a month for the 1 mil we took from her, left her with no money to live , now paying her \$1500 a month, Took 380k from brother Keith, left him w/shit , we where supposed to send him back money after sale of [Kenner's] little house in mex, u sent me 4k for him, i send him \$500 a monyh to live on . . And 4k to 6k to Pv a month . Should I continue ????? It's a fucking joke. And please don't tell me about Mex I am not one of the hockey guys

- ***None of Kaiser's friends & family are aware of the truths.***

[Kaiser]: “*100k went to u*”

Kaiser confirmed via text that *he owed Kenner money* in 2011, *not the other way around*, based on a fabricated collateral agreement ([ECF No. 628 at 1](#)) that defies all

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- John Kaiser verified his mother's incorrect dating of the photo ([Tr.1013](#)), and confirmed it was actually **April 15th, 2007** – *almost two years after the original loan*.

logistical tests **and** the empirical bank records. The stipulated bank records verified Kaiser was fully repaid by the Hawai'i partners in 2006 -- and his California joint venture with Kenner by Spring 2008.

[Kaiser]: “*And please don't tell me about Mex I am not one of the hockey guys*”

In 2011 -- Kaiser confirmed to Kenner that he has “*no interest in Mexico*” and the problems with Jowdy.

How could this be possible if his “alleged” collateral agreement with Kenner that Kaiser references in his *shocking* February 2019 letter for collateral is real (*ECF No. 628 at 1*) – and there is not more-known Kaiser perjury at trial, “*That's the only investment I have left.*” (*Tr.1089*)? Four years later (while working for Jowdy) – Kaiser now has an interest in Mexico? It is more perjury and logistically impossible matter (*unless its payback for the Kenner arrest help*).

The same day, **Kenner further explained to Kaiser via text messages** (*infra*) that patience thru the litigation process with the various fraudsters (Constantine and Jowdy) with experienced attorneys was the only possible remedy, and the sale of multiple real estate projects would generate funds for Kaiser to repay the people he personally borrowed money from since 2005 and never repaid (*before Kaiser and Berard desperately stole some of the real estate projects thru documented fraudulent conveyances of title – and -- forged and fabricated documents, in Rule 16 evidence*).

1	+163123			Buddy. When PV [Arizona] sells, people will get money. When
7	50308	7/22/2011	S	Stolper [Eufora] wins, people will get money. When out east [Sag
4	John	3:57:46	e	Harbor] sells, people can get money. When palms [Vegas] sells,
2	Kaiser*	PM(UTC+0)	n	people can get money. Just send the \$5k [he stole from Kenner] for
2			t	now. Baby steps get us out of this...
1	+163123			
7	50308	7/22/2011	S	
4	John	3:59:29	e	<i>Why are you mad at me? Constantine fucked us!</i>
2	Kaiser*	PM(UTC+0)	n	
3			t	

Days later – Bryan Berard was communicating with Kenner (*infra*) about the litigation efforts thru the investors’ Mexico attorneys and Giuliani’s NY group with Constantine. **Kenner reminded Berard** that Constantine and Kaiser convinced Kenner and the Hawai'i partners that **they** could negotiate with Jowdy in 2007-08 instead of suing Jowdy once Kenner discovered the Jowdy thefts in October 2006 and non-repayment plans to anyone (totaling approximately \$20 million at the time) (corroborated by Michael Peca's 2011 SDNY Grand Jury text – *3500-MP-5 at*

30) (*Ex. 13*); and hi-lighting Kaiser's 2007 knowledge of the stolen Hawai'i loans by Jowdy, etcetera:

1	+140152		S	I'm the one who wanted to sue Jowdy in 2007. Johnny
7	46929	7/25/2011	e	[Kaiser] and the Greek [Constantine] talked me out of it.
4	Bryan	2:36:38	n	Look how that turned out...
9	Berard*	PM(UTC+0)	t	
6				

Berard complained to Kenner (*infra*) about the time the litigation has taken to recover funds from thieves who were unwilling to negotiate with Kenner and Kenner investors' attorneys. Berard's stress was primarily based on Berard spending himself *broke* by 2011, as documented -- and zero due to theft or graft by Kenner or anyone, despite his historically reformative recollections espoused in his literary effort "*Relentless*" (wholly foundationless relating to Kenner) and his substantiating podcasts (to sell his book with fabrications that would fail under civil review):

1	+140152		R	LOOK how everythings turned out. SHIT. We've
2	46929	7/25/2011	e	been suing for years and still NOTHING. We have
7	Bryan	2:38:07	a	nothing.
2	Berard*	PM(UTC+0)	d	
2				

Via text message (*infra*), **Kenner had to reiterate the facts to Berard** for the Hawai'i partners lawsuits (1) versus Jowdy (2008-09 Arizona), (2) for Glen Murray's case in Nevada versus Jowdy (2008-2010), and (3) the subsequent California cases (2009-10) versus Jowdy for the loaned funds -- where he was a Plaintiff, without a single shared expense for the legal efforts in any of the cases: ⁵

⁵ **One** -- Berard independently signed off as a Plaintiff in the 2008-09 Arizona case versus Jowdy with attorney Tom Baker on 10-19-2009 (and faxed from a NY Kinkos by Berard on 10-20-2009); fully acknowledging the Hawai'i partners loans to Jowdy.

- The 17-signed Attorney Baker disclosures were *withheld* by the government pre-trial and *mistakenly* turned over by AUSA forfeiture counsel during their post-trial disclosure productions (*Brady* issue); wholly verifying every Hawai'i partners investors' transparent and independent knowledge (without complaints).

Two -- Berard independently signed off with attorney Ronald Richards in the two California cases versus Jowdy and participated in multiple conference calls and face-to-face meetings seeking resolution of the same Hawai'i partners' loans to Jowdy.

Three -- Berard independently filed multiple testimonials in the various criminal lawsuits versus Jowdy in Mexico during this same period of time; in fact confessing on his own FBI recording in 2012 that he and Kaiser "signed" the Mexico testimonials in the *Stumpel v.*

1	+14015			Nope. We starting to sue 2 years ago after 18 months that
7	246929			Kaiser [Kaiser] & the greek wanted to negotiate with Jowdy. I
9	Bryan	7/25/2011	S	wanted to go after him in 2007. Remember that muzz's [Glen
9	Berard	2:41:07	e	Murray] NV case took 26 months to get to trial. We only
8	*	PM(UTC+0)	n	started suing Jowdy in the big CA case 23 months ago. I know
			t	this stuff ONLY because I've lived every detail of it...

John Kaiser was already under litigation pressures from the Long Island family, friends, police, and doctors he robbed; never blaming Kenner (until he received his 2012 job from Jowdy)...

The Court should note Kaiser had already confessed to Kenner that a Long Island doctor (Willy Kruger) was planning to sue Kaiser for some additional funds Kaiser stole from him (*infra*). Again, *Kaiser does not blame Kenner*.

Dr. Willy Kruger is Dr. Frank Sconzo's partner; *neither personally known to Kenner*. It is the Dr. Sconzo's documented February-March 2008, \$200,000 thefts by John Kaiser from him in the forfeiture production of "[victim - Frank Sconzo & Willy_Redacted](#)" at 15-17 that were systematically "removed" from pre-trial Rule 16 production (*Brady* issue) -- as a result of a direct-3-page-fax from Sconzo to FBI agent Galioto (including cover-sheet) on 3-20-2014.

Kaiser admits to Kenner that he was being sued for money he stole from Long Island doctors. *Kaiser never blames Kenner*:

1	+16312			
9	350308	2/17/2011	R	
9	John	8:40:28	e	
7	Kaiser*	PM(UTC+0)	a	On the phone w / willy he is going to be suing me
5			d	

Jowdy \$1.6 million theft case ([ECF No. 771](#)). These are the same testimonials that Kaiser and the AUSAs proffered to the Court in 2014 that were "forgeries" of Kaiser's name, again.

- The Court should note that 100% of the Kaiser forgery allegations (EDNY, Mexico and Arizona) have been proven as perjury (including the Berard and Donlan Arizona forgery lies) with empirical evidence from Rule 16 production – or incredible circumstances like the recovery of the two "[original ink](#)" Constantine consulting agreements from Kaiser's home on the eve of trial -- *See United States v. Gil*, 297 F.3d 93 (2d Cir 2002) -- and then **concealed** from the government signature expert **and never admitted into evidence** during trial ([Tr.990-91](#) [Kaiser], [Tr.3622, 3626](#) [Petrellese]); a clear [Rule 1002](#), "[Best Evidence Rule](#)" violation and premeditated fraud on the Court.

- *All back-up documents and identified evidence are available to the Court upon request.*

Additional known criminal acts by Kaiser after receiving employment from Jowdy (and working hand-in-hand with FBI agent Galioto)...

After Kaiser (and Berard) received his job in Mexico from Jowdy, Kaiser and Berard began forging documents (in Rule 16 production by the government), fabricating agreements and criminally stealing real estate and other properties from Kenner to pay back people they robbed (including Kaiser's mom, handi-capped brother, Long Island police officers, and doctors).

- FBI agent Galioto has been aware of every ruse, while receiving "real time" communication from Kaiser's brother, Richey.

Kenner communicated with Kaiser's brother after John Kaiser tried to steal two of Kenner's vehicles in Arizona, from Kenner's home in 2012. His brother, Rich, was able to steal approximately \$50,000 of Kenner's construction tools at that time.

An accomplice who was tricked by John and Rich Kaiser to assist in the criminal thefts in January 2012 refused to help once he landed in Arizona and was told about the criminal plan. That person, who only knew Kenner for 2-3 weeks in 2010 (while working on the Arizona project for Kenner and Kaiser), wrote to the Court on behalf Kenner and the Kaiser schemes ([*ECF No. 730 at 101-102*](#)). He also communicated with Kenner in March 2013 to explain they were trying to steal his two vehicles in addition to the tens of thousands of dollars of tools they did steal:

Kenner opened communication (**sent messages by Kenner in yellow**) to get lawsuit information from Kaiser's friend:

1	+135236	3/21/2013	S	Filing a few more lawsuits today. Working hard to get \$\$ back on all fronts. I need your last name spelling for the Kenner v. Kaiser case. LMK. Pk
4	21723	4:23:03	e	
3	Jimmy-	PM(UTC+	n	
7	NY	0)	t	
3	Fellman*			

Fellman replied:

1	+135236	3/21/2013	R	James P Fellman
5	21723	4:25:34	e	
9	Jimmy-	PM(UTC+	a	
3	NY	0)	d	
9	Fellman*			

1	+135236	3/21/2013	R	
5	21723	4:26:56	e	
9	Jimmy-	PM(UTC+	a	
4	NY	0)	d	
0	Fellman*			I thought yours wuz kennerwitz

- Fellman was referring to Jowdy and Kaiser's anti-Semite rhetoric they were spreading to anyone in their proximity to raise hatred towards Kenner for being Jewish.

Fellman continued:

1	+135236	3/21/2013	R	
5	21723	4:51:15	e	
9	Jimmy-	PM(UTC+	a	
4	NY	0)	d	
5	Fellman*			Your lucky that truck wuz gone other wise that would be gone too they are all pathological liars

Kenner was shocked:

1	+135236	3/21/2013	S	
4	21723	4:52:30	e	
3	Jimmy-	PM(UTC+	n	
8	NY	0)	t	
3	Fellman*			Seriously?
1	+135236	3/21/2013	S	
4	21723	5:01:46	e	
3	Jimmy-	PM(UTC+	n	
8	NY	0)	t	
4	Fellman*			So tools, corvette & the pick up truck? How were they getting the truck and Vette out of AZ?

Fellman re-verifies the auto theft plans:

1	+135236	3/21/2013	R	
5	21723	5:24:35	e	
9	Jimmy-	PM(UTC+	a	
5	NY	0)	d	
2	Fellman*			Then you where lucky they only got tools u could have got them on auto theft thats a biggee

John Kaiser's brother, Richie, communicated with Kenner 10-months after his January 2012 thefts from Kenner:

1	+163139	10/21/2012	R	
3	84887	4:51:10	e	
0	Rich	PM(UTC+	a	
				Call you tomorrow from another line. F.b.I called me am not using this phone

8 1	Kaiser*	0)	d	
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Kenner replied:

1 0 9 5 6	+163139 84887 Rich Kaiser*	10/21/2012 4:57:57 PM(UTC+ 0)	S e n t	I'll be here. They probably want to know why your brother stole all the money from your mom and took loans from his friends that he cannot account for now. It's too bad that your brother decided to stir up all this shit with Berard. It was completely unnecessary, but he totally got tricked by Jowdy. It's embarrassing...
1 0 9 5 8	+163139 84887 Rich Kaiser*	10/21/2012 5:02:09 PM(UTC+ 0)	S e n t	All this shit got stirred up because your brother decided to be on Jowdy's team...

Kenner sent a message to the other John Kaiser friend who helped steal the tools from Kenner in January 2012:

1 1 9 6 2	+1631379 3500 Tommy Dittmeier *	12/4/2012 1:11:15 AM(UTC +0)	S e n t	Happy holidays, Tommy! Was it was fruitless from my end to believe that Richey was ever going to send those tools back to me? My best avenue is probably to let my attorney take care of it with the police in Arizona. With John in Mexico Working with the criminal who stole all my And my friends money, John stealing all of the money from his mother and his handicapped brother, and Richie keeping my tools after living with me for 3 years is pretty depressing. I assume you will put a good word with Richie to do the right thing!! your-old friend, PK
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Five days later -- Kenner reached out again to Kaiser's brother about the money John Kaiser stole from all his friends & family and tried to blame on Kenner -- and the real estate Kaiser and Berard stole from Kenner (and 5 other lenders):

1 2 0 6 7	+163139 84887 Rich Kaiser*	12/9/2012 9:53:51 PM(UTC+ 0)	S e n t	I hear your brother tells anyone that'll listen I screwed guys...well, we will see what happens when the legal process plays out. He tried to STEAL the PV [Arizona] house from me when I have over \$1.5mm into the home and he has ZERO! I cannot wait to drag him through that one in court. He will pay for the Long Island theft as well. It is COMING SOON! How does Vinny [Tesoriero] feel about being fucked by him! Remember, John took all your mom's \$\$ and Keith's \$\$, not me! That's fucked up!! Now he is Jowdy's right hand guy! KARMA...IT'S A BITCH WHEN SHE BITES BACK. pk
1	+163139	12/11/2012	S	Even if you do not want me to talk to Tommy, Jimmy, Santa

2 0 9 9	84887 Rich Kaiser*	3:16:25 PM(UTC+ 0)	e n t	Claus, or anybody else... Why can I not get my tools back after one year? After everything that your brother has done to defraud you, your mom, your brother Keith, me, and my hockey guys, I have very little faith in what people say these days. I can only rely on their actions. I hope to see my tools before Christmas so I can restore faith in our friendship. Pk
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Then again -- a year after Richie Kaiser stole the tools:

1 2 7 3 0	+163139 84887 Rich Kaiser*	1/3/2013 11:35:47 PM(UTC+ 0)	S e n t	Ok bud so I get it. It's a year. I know Dirk [Kaiser] has the tools and always did. I feel like a jerk for trusting. You're about to have your 2nd bday since you "borrowed" them. John is about to get sued again for another fraud [Sag Harbor theft with Berard]! Please take care of me like a friend. Please don't act like John. It's a bad way to treat a friend, like I've been from day 1...pk
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Kenner informed Rich, *supra*, that his brother was now getting sued for stealing LedBetter-Sag Harbor money from Kenner and Vincent Tesoriero (*EDNY witness who confirmed to the FBI that John Kaiser had defrauded him and his parents in several investments*) (*Bates stamp: BINDER-000462-471*) (*3500-VT-1-r at ¶12, 13*). The FBI proffers, which confirmed Kaiser defrauded a real “**9-11 First Responder**”, occurred a year *after* Kenner was arrested and detained pre-trial – (*3500-VT-1-r at 2*). Tesoriero told FBI agent Galioto (contradicting more Kaiser trial fabrications):

Kaiser told the EDNY that he was not aware that Berard was involved in the Ledbetter deal -- only Kenner...

7. Kaiser gave Tesoriero \$50,000 back out of the \$350,000 originally put in the Sag Harbor deal. The \$50,000 was paid back by one \$25,000 check given to Tesoriero and Kaiser paid \$25,000 to build a retaining wall at Tesoriero's home.

8. Kaiser told Tesoriero that they needed to get Manfredi out of the Sag Harbor deal and that PHIL KENNER and Bryan Berard were coming in the deal. In November, 2006 Ledbetter is created (Ledbetter would own Sag Harbor) The Sag Harbor deal was closed on with KENNER, Berard, Kaiser and Tesoriero. Tesoriero stated he was not at the closing. Tesoriero found out some time after the closing that Berard came up with the money for the closing and KENNER never put money in the deal. KENNER's role in the Sag Harbor deal would be to raise money to build the property. At the time of the closing Tesoriero did not know where money came from. Thomas Milana was bought out of the Sag Harbor deal. Tesoriero signed documents that stated he was 25% owner in the Sag Harbor deal.

9. Tesoriero stated that he has never spoken to Berard. Tesoriero was under the assumption from the start of the "Ledbetter deal". Berard and KENNER were coming into the deal. Tesoriero received the Ledbetter agreement from only Kaiser.

10. Kaiser told Tesoriero that by the time they sell, Tesoriero would make \$300,000 to \$400,000 on the Sag Harbor deal. Nothing ever happened with the Sag Harbor property. Kaiser told Tesoriero that he had a buyer and that Berard and himself (Kaiser) wanted to sell.

11. The Sag Harbor property was sold for \$740,000. For the sale of the property Tesoriero got \$150,000 check and a \$93,000 check. Tesoriero took a loss because of the 3 closings and the tax on the property.

Kaiser and Berard fully recovered their investment after the fraudulent sale by Kaiser and Berard...

Kenner had not met Tesoriero at the time of the October 2006 deal...

- Berard and Kaiser forged Kenner's girl-friend's name and fabricated a LedBetter operating agreement in order to steal the Sag Harbor property and sell it – after they began working with Jowdy and FBI agent Galioto against Kenner and Kenner investors (*Bates stamp: BINDER-000450, 452*).

Kenner explained to Richie Kaiser (confirmed by *government-forfeiture-44* and *government-forfeiture-36*):

1	+163139	1/5/2013	S	I'm getting my \$\$ from your brother who's a thief. Once I do
2	84887	3:56:27	e	for the PV house, you and others can also get the money
8	Rich	PM(UTC+	n	owed. Your brother fucked all my guys in Hawaii so he
0	Kaiser*	0)	t	could get a job with Jowdy in Mexico. Jowdy pilfered
2				over \$20mm. Now I know by the like each other!

1	+163139	6/26/2013	S	He has tried to steal all the PV [Arizona] profits for
7	84887	12:52:19	e	himself , but he listed you as a person to pay. Felt like you're
1	Rich	AM(UTC+	n	working with &/or helping him! How could it feel any other
7	Kaiser*	0)	t	way! Please explain.

2				
1 7 1 7 3	+163139 84887 Rich Kaiser*	6/26/2013 1:10:20 AM(UTC+ 0)	S e n t	Well, if you are not working with your brother to fight against me, it is really a shame how much destruction your brother has left in the path of joining a known criminal like Jowdy in Mexico, Acting like him, and telling every one of my friends and clients what an amazing guy Jowdy is...
1 7 1 7 4	+163139 84887 Rich Kaiser*	6/26/2013 1:10:43 AM(UTC+ 0)	S e n t	All of it because he borrowed money from too many friends and couldn't live up to his promises and tried to steal like Jowdy to make up the difference...

Conclusion...

With the confidence of the verdict relying on John Kaiser's critical "forgery" testimony (*Tr.990-91, 1124*) and the signature expert's **substantiation** of Kaiser's false assertions (*Tr.3622, 3626*) – referenced in the government and Court submissions as verifying "concealment" and defendant "malfeasance" -- someone needs to delve into the repeated known-perjury John Kaiser proffered to the 2015 Court (*specifically about the funds he claimed he repaid his mother and friends & family*).

Someone must determine if criminal perjury charges should be brought against Kaiser for the various items raised, *supra*, &/or if it was fabricated in concert with the government's prosecutorial efforts (like Kaiser denying his 2010 FBI proffer confessions, *Tr.1120-22 – 3500-JK-1-r*), further prejudicing the defendant's rights to a fair proceeding.

Respectfully submitted (December 2019).
Phil Kenner